

Ordinance No. _____

AN ORDINANCE TO SET FORTH UNIFORM REQUIREMENTS
FOR TRANSPORTATION NETWORK SERVICES; TO DEFINE
TRANSPORTATION NETWORK SERVICES, APPLICATIONS, COMPANIES,
AND OPERATORS AND TO CREATE REGISTRATION PROVISIONS FOR
OPERATORS; AND TO PROVIDE FOR OTHER RELATED MATTERS.

WHEREAS, the City of Memphis is in need of new, innovative, safe and reliable transportation option for its citizens, and

WHEREAS, the citizen of the City of Memphis deserve choices in transportation, and

WHEREAS, the Memphis City Council desires to regulate the area of transportation network services in order to allow for the availability of transportation solutions for its citizens and visitors and to provide for public protections relative to those services.

NOW, THEREFORE, BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL, that Title 6, Business Licenses and Regulations, of the Memphis, Tennessee, Code of Ordinances is hereby amended to add the following Chapter:

Chapter 6-81. Transportation Network Services

Sec. 6-81-1. Definitions

- (a) *Transportation Network Company* or *TNC* shall mean an entity licensed pursuant to this Chapter and operating in the City of Memphis that uses a digital network or software application to connect passengers to Transportation Network Company Services provided by Transportation Network Company Drivers. A TNC is not deemed to own, control, operate or manage the vehicles used by TNC Drivers, and is not a taxicab association or a for-hire vehicle owner.
- (b) *Transportation Network Operator* shall mean an individual who operates a motor vehicle and that is affiliated with a transportation network company and used to provide transportation network company services.
- (c) *Transportation Network Company (TNC) Services* shall mean transportation of a passenger between points chosen by the passenger and pre-arranged with a TNC Driver through a TNC digital network or software application. A TNC Service is not taxicab, for-hire vehicle or street hail service.

Sec. 6-81-2. TNC Permit Required

- (a) A person shall not operate a TNC in Memphis without first having obtained a permit from the Memphis Transportation Commission.
- (b) The Memphis Transportation Commission shall issue a permit to each applicant that meets the requirements for a TNC set forth in this Chapter, and pays an annual permit fee of \$10000.00 to the City of Memphis Permits Office. The amount of this fee will be reviewed one year after the date that this ordinance has been enacted to be adjusted appropriately to align with the costs of TNC regulation.

Sec 6-81.3 **Registration**

- (a) An individual may submit an application to a transportation network company for registration as a transportation network operator.
- (b) Before approving an application submitted under subsection (a) of this section, a transportation network company shall:
 - i. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that is consistent with Financial Credit Reporting Act (FCRA) standards for pre-employment background checks.
 - ii. Conduct, or have a third party conduct, a driving record check for each applicant.
- (c) A transportation network application company shall not approve an application submitted under subsection (a) of this section and shall disqualify an applicant who:
 - i. Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, or who has been convicted at any time for fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror.

Sec. 6-81-4. **Requirements for transportation network application companies.**

- (a) A transportation network application company shall:
 - i. Create an application process for a person to apply for registration as a transportation network operator;
 - ii. Maintain a current registry of the transportation network application company's transportation network operators;
 - iii. Provide the following information on its website:
 - (1) The transportation network application company's customer service telephone number and electronic mail address;

- (2) The transportation network application company's zero tolerance policy established under paragraph (9) of this section;
 - (3) The procedure for reporting a complaint about an individual who a passenger suspects violated the zero tolerance policy under paragraph (8) of this section; and
 - (4) A complaint electronic mail address for the Permits Office for the City of Memphis;
- iv. Conduct, or have a third party conduct, a safety and general appearance inspection of the motor vehicle that a transportation network operator will use before the motor vehicle may be used to provide transportation network services that will include:
 - (1) A safety inspection of brakes, windshield, lights, steering, pollution control devices, tires, and suspension.
 - (2) A general appearance inspection of the exterior of each vehicle, ensuring the vehicle is free of gross damage (dents larger than six inches in any direction).
 - (3) A general appearance inspection of the interior of each vehicle to ensure the vehicle interior is maintained in clean and reasonable condition.
- v. Establish a uniform logo, insignia, decal or trade dress for use on a motor vehicle at any time a motor vehicle is providing or arranging to provide transportation network services;
- vi. Maintain a automobile liability insurance policy that:
 - (1) For accidents involving a transportation network operator from the time that a transportation network operator accepts a request for TNC services until the time that the passenger exits the transportation network operator's vehicle, a transportation network company or transportation network operator shall maintain a liability insurance policy that:
 - 1. Provides primary coverage of at least \$1,000,000 per incident.
 - 2. Provides uninsured/underinsured motorist coverage of at least \$1,000,000 per incident.
 - (2) For accidents involving a transportation network operator during the time that a transportation network operator is logged onto a transportation network company's digital network and is available to accept a

request for TNC services but (i) has not yet accepted a request for TNC services and (ii) is not providing TNC services, a transportation network company or transportation network operator shall maintain a liability insurance policy that provides coverage of at least \$50,000 per person, \$100,000 per accident, and \$25,000 for property damage per accident. If this requirement is to be satisfied by the transportation network company, such coverage may be contingent upon the transportation network operator's personal policy denying coverage for an accident.

(3) Insurance required by this section may be obtained from an eligible surplus lines insurer with the Tennessee Department of Commerce and Insurance.

(4) :The coverage limits required by this section may be satisfied by the following:

1. A commercial liability policy maintained by the transportation network company;
2. A personal automobile liability policy maintained by the transportation network operator that recognizes and covers the transportation network operator's provision of TNC services; or
3. A combination of a policy maintained by the transportation network company and a policy by the transportation network operator as set forth in set forth in subsections (4) 1. and (4) 2.

vii. Establish a zero tolerance policy on the use of drugs or alcohol while transportation network operator is arranging to provide or is providing transportation network services;

viii. Immediately suspend a transportation network operator upon receiving a passenger complaint alleging that the operator violated the zero tolerance policy. Such suspension shall last the duration of the investigation;

ix. Conduct an investigation when a passenger alleges that an operator violated the zero tolerance policy required by paragraph (vii);

x. Maintain records relevant to the requirements of this section for the purposes of enforcement for three years; and

xi. Before doing business in Memphis, submit an application for a permit to the Memphis Transportation Commission that must include:

- (1) Proof that the company is registered to do business in the State of Tennessee;
- (2) Proof that the company maintains a registered agent in Memphis;

- (3) Proof that the company maintains a website that includes the information required by paragraph (iii) of this section;
 - (4) Proof that the company has established a uniform logo, insignia, decal, or trade dress required by paragraph (v) of this section; and
 - (5) A certification under penalty of perjury that the company has complied with the requirements of this ordinance, including, but not limited to the registration requirements for transportation network operators.
 - (6) Proof of the required insurance under paragraph (vi) of this section, naming the City of Memphis as certificate holder.
 - (7) A registration fee of \$10000.00 payable to the City of Memphis.
- (a) A TNC shall not disclose a passenger's personally identifiable information to a third party unless: the passenger consents, disclosure is required by a statute, subpoena, or court order, or disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a Transportation Network Company shall be permitted to share a passenger's name and/or telephone number with the TNC driver providing TNC services to such passenger in order to facilitate identification of the passenger by the TNC Operator, or to facilitate communication between the passenger and TNC Operator.
 - (b) Each licensee shall provide the following data to licensing official, at such times and in a format and manner prescribed by the City of Memphis Permits Office:
 - i. In the event of a formal complaint to the City of Memphis Police Department or City of Memphis Permits Office or court order, the licensee must provide upon the request of the police chief, or their designees, factual information regarding the licensee's drivers and vehicles so as to determine whether or not a particular TNC driver was active on the TNC dispatch system application, in route to a passenger location, or engaged with a passenger at a specific time and date. After receiving a formal request by the City to audit records related to the formal complaint, the TNC shall have 24 hours to comply under this section.

Sec. 6-81-5. **Requirements for transportation network operators**

(a) A transportation network operator shall:

- i. Exclusively accept rides booked through a transportation network application company's digital platform and shall not solicit or accept street-hails;

- ii. Use the required logo, insignia, or trade dress required by Sec. 6-81-4. (v) of this chapter at any time that the operator has logged on to the application as a driver;
- iii. Possess a valid driver's license;
- iv. Possess proof of registration for the motor vehicle used for transportation network services;
 - a. Possess proof of motor vehicle insurance for the motor vehicle used for transportation network services; and
- v. Be at least 21 years of age.

Sec. 6-81-6. Charges

- (a) A transportation network application company may offer service at no-charge, suggest a donation, or charge a fare; provided, that if a fare is charged, a transportation network application company shall disclose the fare calculation method, the applicable rates being charged, and the option for an estimated fare to a passenger before the passenger arranges a trip with the transportation network application company.
- (b) Upon completion of a trip, a transportation network company shall transmit an electronic receipt to the passenger's electronic mail address or mobile application that lists:
 - i. The origin and destination of the trip;
 - ii. The total time and distance of the trip; and
 - iii. A breakdown of the total fare paid, if any.

Sec. 6-81-7. Enforcement

- (a) Upon submission of a permit application, the City of Memphis Permits Office shall issue a permit to a transportation network services company up on approval of the application by the Memphis Transportation Commission.
- (b) Failure to adhere to the requirements of this section by a transportation network application company or operator may result in sanction or revocation of its permit by the City of Memphis Permits Office including fines and other penalties, pursuant to its authority.
- (c) Except for the rules and regulations necessary to enforce the provisions of this chapter, transportation network application companies, operators, and services shall be exempt from regulation by the City of Memphis Permits Office including any rules or regulations requiring a transportation network company to collect or transmit data or information about a customer or a customer's trip to the Commission;

Section 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences,

clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY MEMPHIS, that this ordinance shall take effect on the later of after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

Sponsor: Kemp Conrad

Co-Sponsor: Myron Lowery